

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-19, 21-24, and 27-31 are pending in the present application, Claims 1-19, 21-24, and 27-31 having been amended, and Claims 20, 25, and 26 having been canceled without prejudice or disclaimer. Support for the present amendment is found, for example, in original Claims 20, 25, and 26, Figs. 30-34, and pages 18-22 of the specification. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 1-31 were rejected under 35 U.S.C. §112, second paragraph; Claims 1-3 and 5-24 were rejected under 35 U.S.C. §103(a) as unpatentable over Rutledge (*SMIL 2.0: XML for Web Multimedia*, IEEE Internet Computing, IEEE Service Center, Piscataway, September 2001) in view of Yoshimura (*Mobile Streaming Media CDN Enabled by Dynamic SMIL*, May 2002); and Claims 3 and 25-31 were rejected under 35 U.S.C. §103(a) as unpatentable over Rutledge, Yoshimura, and Barrus (U.S. Patent 6,693,652).

Applicants thank the Examiner for the courtesy of an interview extended to Applicants' representative on June 28, 2010. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the interview are reiterated below.

Claims 1-19, 21-24, and 27-31 are amended to more clearly describe and distinctly claim the subject matter regarded as the invention. Thus, the rejection under 35 U.S.C. §112, second paragraph, is believed to be overcome.

Applicants respectfully submits that amended Claim 1 patentably distinguishes over a proper combination of Rutledge, Yoshimura, and Barrus. Amended Claim 1 recites, *inter alia*,

playing back an initial continuous media item during the current QoS;

specifying alternative media items to be reproduced when a change in the current QoS during playback prevents the initial continuous media from being played back, said alternative media items being specified with a choose element having a startmode attribute which specifies a playtime at which reproduction is started for a continuous media item of the alternative media items after an adaption to the change in the current QoS; and

after adaption to the change in the current QoS, playing back the continuous media item of the alternative media items according to the startmode attribute instead of the initial continuous media item.

A proper combination of Rutledge, Yoshimura, and Barrus does not disclose or suggest the use of the startmode attribute as described in Claim 1.

By way of explanation for a non-limiting embodiment, the playback of media content is determined by the quality of service (QoS) available in the network. Applicants' Fig. 30 shows that as bandwidth changes over time, the media item changes from high quality down to low quality. When a high quality media item is changed to the middle quality media item, an issue arises as to which point in time will reproduction of the middle quality media item begin (i.e., from the beginning at t_0 , or at a time subsequent to t_0). For example, Applicants' Fig. 31 shows that when media item A is changed to an alternative media item B due to a change in QoS, media item B is started from time t_0 . In another alternative, Applicants' Fig. 31B shows that when media item A is changed to an alternative media item B due to a change in QoS, media item is started from time t_1 , which is the time that media item A stopped being reproduced.

The startmode attribute specifies at which playtime (t_0 or t_1 in the exemplary examples discussed above) reproduction is started for a continuous media item of the alternative media items after an adaption to the change in the current QoS. The startmode attribute provides an advantage by allowing application designers to control a starting behavior for continuous media when an initial media item is replaced with an alternative media item when the QoS changes. The designer may choose from various startmodes that prevent the same information from being presented twice to a user (see Applicants' Fig. 32B, wherein the video from times t_0 to t_1 is only reproduced once; also see Applicants' Fig. 32A, wherein the video from t_0 to t_1 is first reproduced for initial media item A and then reproduced again for alternative media item B). Also, the designer may choose a startmode attribute that ensures that no information is omitted from presentation because of the change in QoS (see Applicants Figs. 31 and 32A).

Rutledge and Yoshimura both describe the SMIL language. However, the SMIL language does not include the startmode attribute of amended Claim 1. SMIL is a static environment that does not adapt to changes in QoS after initial playback has begun.¹

Page 82 of Rutledge describes the <switch> element of SMIL. However, this element of SMIL is only performed before playback, and is not performed during playback when the QoS changes.

When rejecting Claim 25, page 15 of the Office Action relied upon Barrus to describe a startmode attribute by referring to record, play, stop, pause, fast forward, and rewind buttons. This is not relevant to the invention defined by amended Claim 1. Barrus does not specify a playtime at which reproduction is started for an alternative continuous media item that is played back instead of an initial continuous media item when there is a change in the current QoS.

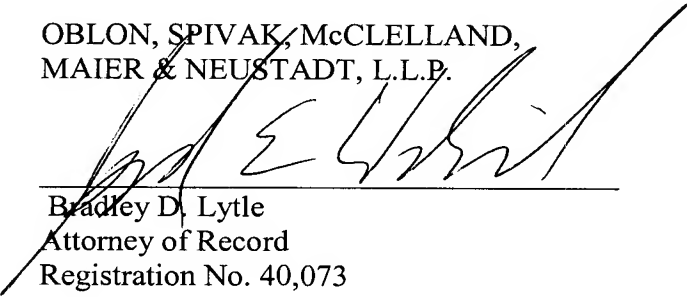
¹ See, Applicants' specification, page 26, line 2 from the bottom of the page to page 28, last line.

In view of the above-noted distinctions, Applicants respectfully submit that Claim 1 (and any claims dependent thereon) patentably distinguish over Rutledge, Yoshimura, and Barrus, when taken in proper combination.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Joseph E. Wrkich
Registration No. 53,796